HON'BLE SRI JUSTICE GODA RAGHURAM

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W.P.NO. 16789 OF 2005.

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DATED: 24.11.2005.

BETWEEN:

Mrs. Arifa, W/o Mr. Mir Farooq Ali,

Occ: Lecturer in Botany (Urdu Medium),

Government Junior College for Girls,

Nampally, Hyderabad.

…… PETITIONER.

And

1. State of Andhra Pradesh,

Rep. By its Principal Secretary to

Government, Collegiate Education

Department, Secretariat, Hyderabad,

and others.

….. RESPONDENTS.

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ORAL ORDER:

1. A tortuous and bumpy service journey has brought the petitioner to the Government Junior College (Girls), Nampally, to work as a Junior Lecturer in Botany (Urdu Medium). Petitioner was appointed as a Junior Lecturer in Botany in Anwar-ul-Uloom Junior College in an aided post. Her appointment to the grant-in-aid post was also sanctioned, ratified and approved. This was in 1980. According to the petitioner, a person junior to her was appointed as In-charge Principal in the said College. Canvassing the validity of such in-charge appointment on several grounds, the petitioner appears to have protested to the management. According to the petitioner, piqued by her protest, the College decided to terminate her services and accordingly passed an order on 08.06.2004 terminating appointment with effect from 01.10.2004. The petitioner thereupon preferred an appeal before the appellate authority i.e., the 3rd respondent herein on 09.06.2004, purportedly under Section 79 of the A.P. Education Act, 1982. The 3rd respondent herein by his order dated 30.06.2004 declared that a private college cannot issue an order terminating appointment of staff members without obtaining the prior permission of the competent authority and as the petitioner's termination from service was in transgression of this mandatory requirement, the termination order is invalid. The termination was set aside. The Anwar-ul-Uloom Junior College did not however permit the petitioner to report to duty notwithstanding the order of the competent authority i.e., 3rd respondent dated 30.06.2004. Thereupon the 3rd respondent passed an order dated 10.11.2004 directing the District Vocational Education Officer to claim the petitioner's salary for October, 2004, and for later periods by obtaining the petitioner's attendance certificate.

2. Clueless as to how to effectuate his statutory authority under the Act, the 3rd respondent appears to have explored an alternative to a confrontation with a private aided college. This alternative was to post the petitioner to any other needy junior college. Accordingly the 3rd respondent, by proceedings dated 09.12.2004, directed that the petitioner be posted at the Government Junior College (Girls), Nampally. The petitioner was admitted to the Government Junior College (Girls), Nampally, on 10.12.2004.

3. By proceedings dated 21.07.2005 the petitioner is informed that she has been " redeployed to Government Junior College (Girls), Medak, as per the orders of the Commissioner of Intermediate Education, dated 20.07.2005" and the Principal of the Government Junior College for Girls, Medak, was directed to admit the petitioner consequent on the redeployment. Petitioner assails this order of the 4th respondent on a number of grounds including that there is no justification for her redeployment to Medak and that her services are better employed at the Government Junior College (Girls), Nampally, where she was imparting instruction in Botany in the Urdu Medium. It is also contended, and that is the principal contention, that the 4th respondent was neither competent nor authorised to transfer the petitioner from Nampally to the Medak College. It is further contended that as the petitioner's tenure in the Government Junior College (Girls), Nampally, was in the peculiar circumstances of Anwar-ul-Uloom Junior College episode, she should be considered as having been transferred along with the post to the Government Junior College (Girls), Nampally, with one aided post of Junior Lecturer temporarily added to the cadre strength of the Government Junior College (Girls), Nampally, and that in the circumstances, the petitioner cannot be transferred out of Nampally till the 3rd respondent is able to settle his turf battle with the Anwar-ul-Uloom Junior College.

4. With regard to the principal objection of the petitioner, the counter-affidavit filed on behalf of the 2nd respondent states that the 4th respondent did not pass the orders of redeployment/transfer of the petitioner, her redeployment is consequent upon an approval by the 2nd respondent of the proposals of the 4th respondent for redeployment of the petitioner and while approving the proposals, the 2nd respondent directed the 3rd respondent to ratify the action of the 4th respondent. Though the proceedings of the 2nd respondent dated 20.07.2005 proceed on the premise that the transfer has been by the 4th respondent and that transfer has to be ratified by the 3rd respondent, the fact of the matter, as appears from the records including a proceeding of the 4th

respondent dated 19.07.2005, is that the 4th respondent proposed redeployment of the petitioner. That proposal was approved by the 2nd respondent who directed the 3rd respondent to issue the orders to ratify the transfer. This roundabout and circuitous administrative mechanism for a mere transfer is incomprehensible. The fact of the matter however is that there has been an application of mind by the respondents 2, 3 and 4 to transfer the petitioner from the Government Junior College (Girls), Nampally, to the Government Junior College (Girls), Medak. Though the petitioner appears to be interested in continuance in the Government Junior College (Girls), Nampally, her incumbency in a post in a Junior College itself is a transitory measure by way of accommodation till the official respondents are able to sort out the issue whether they have any effective and operational power to enforce the provisions of the A.P. Education Act against Anwar-ul-Uloom Junior College.

5. In the circumstances, the petitioner does not appear to have a legitimate basis for claiming continuance only in the Government Junior College (Girls), Nampally. However, she is certainly entitled to protection of salary and other service benefits till the official respondents sort out as to how to deal with the Anwar-ul-Uloom Junior College or where to eventually accommodate the petitioner, in which service and on what terms or even how to tackle the defiance of the Anwar-ul-Uloom to the statutory authority of the respondents 2 to 4. All these issues in the womb of the future and this is not the appropriate time for considering those issues. As there is apparent an application of mind by the respondents 2 to 4 with regard to the transfer of the petitioner, as the 3rd respondent is the competent authority to order such transfer and as the petitioner's posting to a Government Junior College appears to be a transitory measure, this Court does not consider it appropriate to deal with the other questions raised by the petitioner as to whether her continuance is more desirable in the Government Junior College (Girls), Nampally, than in the Government Junior College (Girls), Medak. The respondents 1 to 4 are consecrated the power and discretion to manage the administration of Junior Colleges. How wisely they administer their jurisdiction cannot be the subject-

matter of judicial review. This Court, therefore, declines the invitation of the petitioner to go into these issues.

6. On the above analysis, this Court finds no infirmity in the redeployment of the petitioner to the Government Junior College (Girls), Medak, having regard to the orders of the 2nd respondent dated 20.07.2005 bearing reference Rc.No.Admn.II-1/1493/2005. However, the petitioner is entitled to protection of her current status and emoluments.

7. Sri Nuty Rama Mohana Rao, learned counsel for the petitioner, complains that notwithstanding the suspension of the impugned order of redeployment by the orders of this Court dated 28.07.2005, the respondents have not paid the salary and other emoluments to the petitioner.

8. Since the order of the 4th respondent dated 21.07.2005 was suspended by this Court, it must be considered as having been gone into plenary eclipse. The official respondents are, therefore, obligated to pay the petitioner her salary and emoluments. This is an obligation in law from which there is no escape for the respondents 1 to 4. Therefore, while rejecting the principal claim of the petitioner i.e., challenge to the orders of her redeployment, this Court declares the right of the petitioner to her salary and emoluments from the date of suspension of the impugned order. The petitioner shall be paid salary and emoluments from the date the impugned order has been suspended by this Court in the writ petition till today.

6. With the directions as above, writ petition stands disposed of. There shall be no order as to costs.

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NOVEMBER 24, 2005.

Vrk.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 16789 OF 2005.

Dt: 24.11.2005.

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